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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: KOMAI=4

In re Application of:)	Art Unit: 1773
)	
Masao KOMAI, et al.)	Examiner: S. AHMED
)	
Serial No.: 09/743,849)	Confirmation No. 8746
)	
Filed: March 8, 2001)	Washington D.C.
)	
For: RESIN COATED STEEL SHEET)	September 10, 2004
CARTRIDGE CAP AND...)	
)	Attn: PETITIONS

PETITION TO VACATE HOLDING OF ABANDONMENT¹

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

Sir:

Applicant is in receipt of the Notice of Abandonment, mailed August 24, 2004, which **erroneously** states that the application is abandoned because of applicant's failure to file a response within the time period established by the Office Action mailed December 29, 2003.

It is respectfully requested that such Notice of Abandonment be vacated as being erroneous and that the present application be reinstated.

¹ If a fee must be charged, please charge same to Deposit Account No. 02-4035, and then refund said fee as the holding of abandonment is erroneous and is entirely the fault of the PTO.

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THE FACTS

Applicant timely and properly responded within the time period established by the Office Action dated December 29, 2003, by timely filing a Request for Continued Examination (RCE) on April 12, 2004.

A Notice of Improper Request for Continued Examination, dated April 16, 2004, was received in the office of the undersigned on April 19, 2004. However, said Notice did not give any reason as to why the RCE was improper. Accordingly, Attorney Anne Kornbau of the office of the undersigned contacted Ms. Nicole Hensley, the clerk responsible for sending the Notice. Ms. Hensley indicated that the RCE was improper because it did not also include a response to the official action. In response to Ms. Hensley explanation for the notice, Ms. Kornbau pointed out that a Reply to the final action had been filed on February 20, 2004, and that the RCE form under item 1, "Submission required under 37 C.F.R. §1.114", clearly states:

Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

Thus, as a Reply has been filed in response to the Final Action, no further Reply was necessary.

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Ms. Hensley then agreed that said statement was acceptable and that nothing needed to be done in response to the Notice. She also stated that she was entering the "Reply: Amendment and Remarks" (Amendment After Final) previously submitted on February 20, 2004.

Upon further review of the RCE as filed it has been noticed that the one-month extension of time fee was perhaps not sufficiently clearly authorized, although it was properly authorized. Said RCE form should have indicated that a one-month's extension of time was being paid for; instead it merely provided for a provisional extension of time, if needed. Accordingly, the undersigned authorizes the one-month's extension of time to be charged to deposit account 02-4035. However, as the RCE was timely filed within the one-month extension period and the filing fees were properly paid, and the extension fee was properly authorized, it is believed that no further fees with regard to the RCE are due at this time.

REMARKS

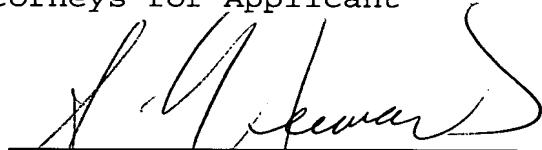
In view of the above facts, it is clear that a proper response to the final official action of December 29, 2003, was indeed filed. However, through no fault of the undersigned the response was not properly entered.

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Accordingly, it is respectfully requested that the "Reply:
Amendment and Remarks" filed on February 20, 2004, and the
RCE, filed on April 12, 2004, be entered and that the Notice
of Abandonment be vacated and the present application be
reinstated.

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